THE HONOURABLE SRI JUSTICE C.V. RAMULU

WRIT PETITION NO.19505 OF 1998

DATED: 21-6-2007

Between:

The Depot Manager, APSRTC, Yadagirigutta, Nalgonda District.

.. Petitioner

and

The Labour Court-III, Hyderabad represented by its Presiding Officer and another.

.. Respondents

THE HONOURABLE SRI JUSTICE C.V. RAMULU

WRIT PETITION NO.19505 OF 1998

ORDER:

This writ petition is filed seeking a certiorari to call for the records pertaining to the award, dated 25.06.1997, made in I.D.No.752 of 1993, on the file of the Labour Court-III, Hyderabad, and to quash the same as arbitrary and illegal.

It appears, the 2nd respondent was working as Conductor in the A.P. State Road Transport Corporation (for short 'A.P.S.R.T.C.'). While so, on 09.3.1990, when he was conducting a bus bearing No.2769 on the route Yadagirigutta to Uphills, a check was exercised by the checking officials at stage No.28. It was detected that the 2nd respondent-workman has violated the rule 'issue and start' and failed to collect fare and issue tickets to as many as 70 passengers (60 children and 10 adults) and also failed to close the S.R. The T.T.Is. recorded the statements from the ticket-less passengers in the presence of the workman and got them attested by him. Basing on the said statements and other material available on record, while placing him under suspension, a charge sheet was issued framing the following charges:-

1) For having violated the rule Issue and Start.
2) For having failed to collect the fare and issue tickets to a batch of 70 passengers found alighting without tickets at Uphills who boarded his bus at YGT Bus Station, Ex-stages 27 to 28. Fare chargeable is Rs.1/- per head amounting to Rs.70/- for 70 passengers.
3) For having failed to close the SR against Stage No.28.

Thereafter, a detailed enquiry was conducted and, ultimately, the

2nd respondent was removed from service with effect from 11.08.1990. Aggrieved by the same, the 2nd respondent had raised a dispute, being I.D.No.752/93, before the 1st respondent-Labour Court. Before the Labour Court, though no oral evidence was let in on either side, Exs.M1 to M24 were marked on behalf of the management. Further, the workman filed a petition under Section 11-A of the Industrial Disputes Act (for short 'the Act') praying to decide the matter on merits only and the validity of the enquiry may not be gone into. The Labour Court, after detailed consideration of the entire material placed before it, came to the conclusion that the charges are proved. However, it gave a finding that since there were no malafides on the part of the workman and the violation is only technical in nature, the punishment of removal was not in proportion to that of the misconduct proved and, therefore, directed the management to reinstate the 2nd respondent-workman into service with continuity of service and with all attendant benefits, but without backwages, while imposing a punishment of stoppage of three increments with cumulative effect. Aggrieved by the said award, the management preferred this writ petition.

The learned counsel for the petitioner strenuously contended that the Labour Court, having rightly held that the charges levelled against the workman are proved, ought not to have interfered with the well considered order passed by the disciplinary authority. Further, in a case of this nature, where the workman deliberately failed to issue tickets to as many as 70 passengers, it cannot be said to be a technical misconduct and the punishment of removal from service is not in proportion to that of the misconduct proved.

On the other hand, the learned counsel for the respondents strenuously contended that the Labour Court has rightly found that the misconduct was only technical in nature and absolutely there was no

malafide intention on the part of the workman and, under those circumstances, the Labour Court rightly came to the conclusion that the punishment of removal from service is disproportionate to that of the misconduct and, while setting aside the order of removal, imposed a punishment of stoppage of three increments, but however denied the backwages. Therefore, the Labour Court has not committed any error calling for interference of this Court under Article 226 of the Constitution of India.

I have given my earnest consideration to the respective submissions made by the learned counsel on either side and perused the impugned award and other material made available on record.

The charges are that the 2nd respondent-workman violated the rule 'issue and start', failed to collect the fare and issue tickets to a batch of 70 persons, who boarded the bus at Yadagirigutta bus station and found alighting without tickets at Uphills, and also failed to close the S.R. against stage No.28. The sum and substance of the charges is that the 2nd respondent-workman failed to collect Rs.70/- in all from a batch of 70 passengers.

On perusal of the impugned award, I am of the opinion that the finding recorded by the Labour Court that the misconduct is only technical and not otherwise, cannot be countenanced. Once the bus is going to reach the last stage, the Conductor is supposed to take care of issuance of tickets to all the passengers before reaching that stage. In this case, the 2nd respondent allowed as many as 70 passengers, who are said to be a batch consisting of 60 children and 10 adults, to travel free of cost, as if he was extending some charity to them. This cannot be taken so lightly. In such circumstances, the Conductor should have issued the tickets first and then started the bus by following the rule 'issue and start'. Therefore, it cannot be said to be a

minor misconduct. It was a gross misconduct on the part of the 2nd respondent-workman. However, it is brought to the notice of this Court that even before filing of the writ petition, the 2nd respondent-workman was reinstated into service on 17.08.1998 and was working for the last nine years.

Under these circumstances, I deem it appropriate to modify the award passed by the Labour Court and, accordingly, the award is modified to the effect that all the attendant benefits extended under the award shall stand deleted and the rest of the award is confirmed.

With the above modification, the writ petition is disposed of. There shall be no order as to costs.

C.V. RAMULU, J

21st June, 2007.
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